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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,271	07/23/2003	Terry R. Hobbs	58017US002	8409

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EXAMINER	
PAK, JOHN D	

ART UNIT	PAPER NUMBER
1616	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/625,271	HOBBS ET AL.	
	Examiner	Art Unit	
	John Pak	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 November 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,5-11,13,14,16,24-26 and 37-39* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,5-11,13,14,16,24-26 and 37-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claims 1-2, 5-11, 13-14, 16, 24-26, and 37-39 are pending in this application and they will presently be examined.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5-10, 13-14, 16, 26, 37-38 stand rejected under 35 U.S.C. 102(b) as being anticipated by Devillez (US 5,736,582) for the reasons of record.

Devillez explicitly discloses a skin treating composition that contains, inter alia, the following ingredients at pH 4.6:

3.5 wt% hydrogen peroxide (calculated from 10% of a 35% solution);

1 wt% salicylic acid;

1.67 wt% cetyl alcohol;

74.8 wt% distilled water;

0.3 wt% sodium hydroxide;

0.06 wt% simethicone (has antifoam properties);

0.31 wt% sodium lauryl sulfate;

1.86 wt% Promulgen G (stearyl alcohol + ceteareth-20, which is a fatty alcohol ethoxylate).

See column 6, lines 45-56 and column 7, lines 28-30.

Claim 1 requires both an aromatic acid and a salt of the aromatic acid. It is noted that Devillez's composition has sodium hydroxide added to it, q.s. pH 4.6. Sodium hydroxide would then necessarily react to produce the salt form of the acid and render some salt form to be present in the composition. See for example applicant's agreement on this point (in situ salt) in the instant specification, page 9, lines 1-3.

The kill rate feature in claim 2 is noted, but such feature is deemed to be an inherent characteristic of Devillez's composition that contains the same exact ingredients as applicant's composition. Additionally, such kill rate can depend on the challenge level and the particular bacteria strain. As a result, when the Examiner can show a prior art composition that contains the same ingredients as the claimed invention, the burden of showing that the prior art composition does not somehow have the same properties shifts to applicant. MPEP 2112, 2112.01.

Claim 26 requires the composition to be more resistant to catalase deactivation than an aqueous solution of hydrogen peroxide. The Examiner's position is that since Devillez's composition contains the same ingredients as applicant's composition, the same resistance must necessarily be present.

Method of claim 37 is noted but such method would necessarily have been obtained from Devillez's teachings since the ingredients must be combined in order to obtain the mixture of ingredients. All other claim features are plainly encompassed by Devillez's composition, as shown above.

Applicant's arguments of 11/26/2007 have been given due consideration but they were deemed unpersuasive.

Applicant argues that "such small level of the acid combined with ~0.7 wt% surfactant is not expected to be active against mycobacteria." The Examiner cannot agree with applicant's reading of Devillez. Devillez's composition contains 3.5% hydrogen peroxide, so that alone should be enough to render the composition active against mycobacteria. Moreover, it must be noted that applicant's claims require "from **0.1%** to 5.0% by weight **of aromatic acid component comprising** an aromatic acid and a salt of the aromatic acid" (emphases added). Such language means that the claims read on 0.1% total of acid + salt. This scope reads on Devillez's disclosure.

Applicant also argues that a reason is required to eliminate certain ingredients such as sodium hydroxide and simethicone from Devillez's composition or a reason is required "to modify the relative percentages of the ingredients in the Devillez compositions to provide a composition like that described in Applicant's pending claim 1." These arguments are without merit.

Applicant seems to be under the mistaken understanding that "consisting essentially of" under the present fact situation has more exclusionary effect than it actually does. The phrase, "consisting essentially of" limits the scope of the claim to materials that do not materially affect the basic and novel characteristics of the claimed invention. MPEP 2111.03. However, absent a clear indication in the specification or

claims of what the basic and novel characteristics actually are, "consisting essentially of" will be construed as equivalent to "comprising." Id.

Additionally, applicant discloses in the specification that numerous components can be added. Apparently, these components do not materially affect the basic and novel characteristics of applicant's invention (specification page 11) (emphases added):

> Optional additional components may be included in the compositions of the invention such as: antifoaming agents, foaming agents, corrosion inhibitors, peroxide stabilizing agents, hydrotropes, fragrances, and colorants. Suitable corrosion inhibitors include nitrates, azoles such as benzotriazole, and imidazoles. Tin compounds and pyrophosphates are examples of suitable peroxide stabilizers. These optional components may be included in the compositions of the invention at a concentration level in the ready to use compositions of up to about 10% by weight. Exact amounts of the individual optional components is within the ordinary skill of those working in the art. Other components known to those skilled in the art may also be included in the composition to alter or tailor the basic composition to a particular need.

Therefore, it does not appear that any of Devillez's ingredients are excluded by applicant's claim language.

Regarding sodium hydroxide, applicant discloses (page 9) (emphases added):

> acid in the composition. In other embodiments, the acid may be included in the initial formulation with a base such as sodium hydroxide, for example. Interaction between the aromatic acid and the base react to form the salt of the acid *in situ*.

Therefore, applicant's argument that sodium hydroxide must be excluded is clearly erroneous.

As for modifying relative percentages of ingredients in Devillez's composition to "provide a composition like that described in Applicant's pending claim 1," this argument cannot be understood. No modification is necessary since applicant's claim language clearly reads on Devillez's composition.

Claims 1-2, 5-10, 13-14, 16, 24-26 and 37-38 stand rejected under 35 U.S.C. 102(b) as being anticipated by Devillez (US 5,958,984).

Devillez explicitly discloses a skin treating composition that contains the following ingredients at pH 4.6:

3.5 wt% hydrogen peroxide (calculated from 10% of a 35% solution);

1 wt% salicylic acid;

10 wt% propylene glycol;

1.6 wt% cetyl alcohol;

74 wt% distilled water;

0.3 wt% sodium hydroxide;

1.8 wt% Promulgen G (stearyl alcohol + ceteareth-20);

0.06 wt% simethicone; and

0.3 wt% sodium lauryl sulfate.

See the paragraph bridging columns 6-7 and the "ACNE SKIN TREATMENT COMPOSITION."

Claim 1 requires both an aromatic acid and a salt of the aromatic acid. It is noted that Devillez's composition has sodium hydroxide added to it, q.s. pH 4.6. Sodium hydroxide would then necessarily produce the salt form of the acid and render some salt form to be present in the composition. See for example applicant's agreement on this point (in situ salt) in the instant specification, page 9, lines 1-3.

The kill rate feature in claim 2 is noted, but such feature is deemed to be an inherent characteristic of Devillez's composition that contains the same exact ingredients as applicant's composition. Additionally, such kill rate can depend on the challenge level and the particular bacteria strain. As a result, when the Examiner can show a prior art composition that contains the same ingredients as the claimed invention, the burden of showing that the prior art composition does not somehow have the same properties shifts to applicant. MPEP 2112, 2112.01.

Claim 26 requires the composition to be more resistant to catalase deactivation than an aqueous solution of hydrogen peroxide. The Examiner's position is that since Devillez's composition contains the same ingredients as applicant's composition, the same resistance must necessarily be present.

Method of claim 37 is noted but such method would necessarily have been obtained from Devillez's teachings since the ingredients must be combined in order to obtain the mixture of ingredients. Applicant's "consisting essentially of" language has been discussed in previous Office actions (e.g. see pages 4-6 of the 12/28/2006 Office

action), and the discussion there is incorporated herein by reference. The ingredients of the cited prior art composition E would not be excluded by the claim language for the reasons stated above. All other claim features are plainly encompassed by Devillez's composition, as shown above.

Applicant's arguments of 11/26/2007 relative to this ground of rejection are the same as the arguments advanced against Devillez (US 5,736,582). Those arguments were found unpersuasive and fully addressed earlier in this Office action, and the discussion there is incorporated herein by reference.

New claim 39 is rejected under 35 U.S.C. 102(b) as being anticipated by Mei-King Ng et al. (US 4,839,157).

Mei-King Ng et al. disclose the following composition (column 10, Example 4):

Ingredients	% Example 4
Polyethylene glycol 600 (Union Carbide)	20.0
Aerosil 200 (Degussa)	8.0
Aerosil R972 (Degussa)	0.5
Hydrogen peroxide (35% aqueous solu)	8.6
Sodium Saccharin	0.2
Sodium Benzoate	0.35
Polyoxyethy (20) Sorbitan Monolaurate	1.0
Flavor	1.0
Distilled, deionized water	60.35
pH: app. 4.5-5.0	

The disclosed composition contains greater than 1 wt% hydrogen peroxide, a sorbitan ester (monolaurate) at 1 wt%, and sodium benzoate at 0.35 wt% at an acidic pH of about 4.5-5.0. Although benzoic acid is not expressly disclosed, presence of some acid form must necessarily be present because the acidic environment of the benzoate moiety would provide some benzoic acid moiety in equilibrium with the benzoate. Applicant's claim 39 does not require anything more than equilibrium presence of the acid form. The high amount of the hydrogen peroxide would deliver microbicidal activity, but it is noted that applicant's claims do not even require such activity.

The claims are thereby anticipated.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-2, 5-11, 13-14, 16, 24-26 and 37-39 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Del Duca et al. (EP 916721).

Del Duca et al. disclose a 0.1-20 wt% or 2-10 wt% hydrogen peroxide composition that contains a buffering system, which includes 0.1-10 wt% or 0.3-2 wt%

benzoic acid/sodium benzoate, phthalic acid/potassium phtalate, or salicylic acid/sodium salicylate (paragraphs 13, 20, 21, 30 & claims 1, 5-6).

Del Duca et al. teach incorporation of surfactants, solvents and various other ingredients (paragraph 50). Surfactants can be incorporated at 0.5-15 wt% or 1-10 wt% (paragraph 52). Suitable surfactants include fatty alcohol ethoxylates (see the formula in paragraph 55; see also paragraph 57), fatty acid amides (paragraph 60), amine oxides (paragraph 65), and diesters of sulfosuccinate, especially saturated C_{6-14} diesters (page 9, lines 45-46). pH of up to 7 is disclosed for the composition (claim 1). Water as a major component in the composition is disclosed (see all the examples).

The percentage range and component selection as claimed are fairly suggested by Del Duca et al. Motivation to select the specific fatty alcohol ethoxylates, fatty acid amides, amine oxides and/or C_{6-14} diesters of sulfosuccinate arises from their being taught as being suitable and stable to hydrogen peroxide (paragraph 51).

Claim 2 recites a pathogenic bacteria kill rate of 99.9% in about 90 seconds. Identification of bacteria or pathogen load is not provided. Therefore, one having ordinary skill in the art would have fairly expected such kill rate depending on the bacteria, bacterial viability/vigor/susceptibility, and bacterial load from a composition that contains the level of hydrogen peroxide as taught by Del Duca et al.

Claim 6 requires that the aromatic acid component is present in a concentration sufficient to provide synergy with hydrogen peroxide to kill microorganisms. Del Duca et

al. provide the same hydrogen peroxide and the same aromatic acid + salt combination, wherein the same surfactant, solvent and carrier are suggested. Thus, the same property would be possessed by Del Duca's aromatic acid component + hydrogen peroxide.

Claims 13 and 24 require solvents, which are selected from a list that includes ethanol and isopropanol. Given the various formulation adjuvants disclosed by Del Duca et al., in view of the teaching of solvents (paragraph 50), common solvents such as ethanol and isopropanol would have been an obvious inclusion, particularly for improving the mixing and formulating of the composition. 1-40 wt% of solvents such as those recited in applicant's claim 25 is fairly suggested by the expected solvent function of ethanol and isopropanol. Adjustment of quantity for formulation homogenization and/or optimization would have been within the skill of the ordinary skilled artisan.

Claim 14 recites an emulsion with water carrier. Del Duca's majority water + surface active ingredient-containing examples are fairly suggestive of water based emulsions.

Claims 16 and 27 recite pH of 3.5-5. Del Duca's pH ranges up to 7, and all the examples have the pH's between 4-5. Such disclosure taken with the buffering capacity of benzoic acid/sodium benzoate, phthalic acid/potassium phtalate, or salicylic acid/ sodium salicylate (paragraph 29) suggests applicant's claimed feature.

Claim 37 merely requires combining the initial components. Del Duca's disclosure is suggestive of the same (see above citations).

Claim 38 requires the composition of claim 1 to be formulated for application to skin. Such language is broad in that virtually any scope can be encompassed. Formulated for application to skin can mean formulated for cauterization or rapid and indiscriminate disinfection for emergency infections. Ingredients used by Del Duca et al. are the same as those used by applicant. The ingredients are not inherently toxic to the skin. Del Duca's composition is deemed to be within the language of claim 38.

Therefore, the claimed invention, as a whole, would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made, because every element of the invention and the claimed invention as a whole have been fairly disclosed or suggested by the teachings of the cited reference.

With respect to this ground of rejection, applicant's specification data has been reviewed for objective evidence of nonobviousness. The following comments explain why they are not probative evidence of nonobviousness.

Example	Comments
1	- The data (using sodium dioctyl sulfosuccinate, benzoic/benzoate) is nowhere commensurate in scope with that of the entire claimed subject matter.
2	- Does not contain mixture of aromatic acid and aromatic acid salt.
3	- See comments for Example 1

4	- Does not contain mixture of aromatic acid and aromatic acid salt.
5	- This is not a comparison against the closet prior art. Naked hydrogen peroxide is not the closest prior art formulation of hydrogen peroxide.
6	" "
7	" "
8	" "
9	- See comments for Example 1. Also, the comparison Example B cannot be compared because too many variables are different between Example 9 and Example B.
10	- The data (using sodium lauryl sulfate, benzoic/benzoate) is nowhere commensurate in scope with that of the entire claimed subject matter.
11	" "

Applicant argues in the response filed on 11/26/2007 that Del Duca uses more ingredients than are within the scope of the present claims and that nothing in Del Duca's disclosure teaches or suggests modification to eliminate certain ingredients such as perfume or to modify the relative percentages to arrive at the claimed invention, which has antimicrobial characteristics. The Examiner cannot agree.

First, it must be noted again that applicant's invention contemplates the inclusion of great many different types of additives, including myriad surfactants, antifoaming agents, foaming agents, fragrances, colorants, corrosion inhibitors. See specification, from page 10, first full paragraph to page 11, line 18. Therefore, it cannot be understood how applicant's claim language operates to exclude any of Del Duca's composition ingredients.

Second, regarding the argument that Del Duca's composition is a laundry detergent composition, it is pointed out that applicant's specification discloses providing

"detergency function in the presence of soil and organic loads" (page 10, lines 10-12). Also, the following disclosure by applicant is noted (specification page 13) (emphases added):

> The compositions of the invention have a broad spectrum of activity and are capable of accomplishing high level disinfection on any of a variety of surfaces. Exemplary surfaces include the surfaces of delicate medical instruments, devices such as, for example, endoscopes, food contact surfaces, surfaces within ventilation ducts, on cruise ships, in hospitals, under and within carpeting, and the like. The compositions may also be use as disinfectant cleaners and as skin antiseptics. The compositions of the invention can be used for disinfecting dental, medical, and veterinary equipment and devices as well as disinfecting inanimate surfaces such as floors, furniture, ceilings, door knobs, toilet seats, building vents, and surfaces of sinks. In addition, the compositions are useful for treating and disinfecting agricultural goods, produce, and raw materials. Furthermore, because the compositions of this invention contain lower levels of peroxide (<6%), they may be used for antimicrobial skin cleaners (e.g., hand cleaners), washes and scrubs, antiseptics, and for direct antimicrobial use or as an additive to laundry or dishwashing formulations. The compositions can be directly applied to the skin or bodily

Clearly, Del Duca's composition is similar to applicant's composition, both in composition makeup and in applicable use.

Third, Del Duca's composition can contain up to 10 wt% of hydrogen peroxide, and that in itself is sufficient for the composition to be microbicidal. As for combination of ingredients at the claimed proportions, the explanation of record for obviousness thereof is deemed to be sufficient and is restated herein by reference.

For these reasons, and for the reasons of record, applicant's arguments are found unpersuasive, and this ground of rejection must be maintained.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-2, 5-11, 13-14, 16, 24-26, 37 and 39 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 and 20-25 of copending Application No. 11/153,760. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons.

The copending claims recite the following ingredients in a mycobactericidal composition:

- synergistic combination of 1-70 wt% alcohols such as ethanol and n-propanol with 0.03-5 wt% benzoic acid (claims 1-3, 9);

- less than 1 wt% of a surfactant such as amine oxides, block copolymers of ethylene oxide and propylene oxide, sodium dioctyl sulfosuccinate (claims 12, 15-17); and

- up to 10 wt% of hydrogen peroxide (claims 21-22).

pH of the composition is about 3.5-6.5 (claim 24).

Although a salt of an aromatic acid is not expressly disclosed by the copending claims, presence of some amount of the salt form in equilibrium would have been obvious, particularly in view of the moderate pH range of the copending composition.

The percentage range and component selection as claimed in this application are fairly suggested by the copending claims.

Claim 2 recites a pathogenic bacteria kill rate of 99.9% in about 90 seconds. Identification of bacteria or pathogen load is not provided. Therefore, one having ordinary skill in the art would have fairly expected such kill rate depending on the bacteria, bacterial viability/vigor/susceptibility, and bacterial load from a composition that contains up to 10 wt% hydrogen peroxide + synergistic mixture of alcohol and benzoic acid.

Claim 6 requires that the aromatic acid component is present in a concentration sufficient to provide synergy with hydrogen peroxide to kill microorganisms. The copending composition would have been expected to provide synergistic activity, and since the components are the same, the same activity would have been possessed by the copending composition.

Claim 14 recites an emulsion with water carrier. Given all the surfactants and additives, use of water for its common carrier/solvent functionality and emulsion resulting from water + surfactants would have been obvious to the ordinary skilled artisan.

Claim 37 merely requires combining the initial components. Copending claims are suggestive of the same since mixing of starting ingredients is obvious.

Therefore, the claimed invention, as a whole, would have

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Applicant apparently acquiesces on this ground of rejection as this rejection has not been traversed. It is so noted. A proper terminal disclaimer must be filed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to JOHN PAK whose telephone number is **(571)272-0620.** The Examiner can normally be reached on Monday to Friday from 8 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's SPE, Johann Richter, can be reached on **(571)272-0646**.

The fax phone number for the organization where this application or proceeding is assigned is **(571)273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John Pak/
Primary Examiner, Art Unit 1616